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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,760	08/14/2001	Scott E. Hrastar	191910-1111	9487

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Scientific Atlanta, Inc.  
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EXAMINER

SALCE, JASON P

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 02/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/929,760

Applicant(s)

HRASTAR ET AL.

Examiner

Jason P Salce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/15/02 has been entered.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 10-14, 16-32 rejected under 35 U.S.C. 102(b) as being clearly anticipated by Carr et al. (U.S. Patent No. 5,608,446).

Referring to claim 1, Carr discloses a cable delivery network for delivering digital data to host a location up a subscriber-initiated request (Column 1, Lines 30-32 and Lines 53-56). Carr also discloses an apparatus for authenticating that the subscriber is authorized to use said network (Column 3, Lines 23-25). Carr also discloses a network manager including at least one database of authorized users (Column 3, Lines 4-9).

Carr also discloses a validation agent which contains logic to authorize the subscriber to access a first communications path by comparing first identification

information with at least part of the at least one database (Column 5, Lines 34-38 and Column 8, Lines 41-47). Carr also discloses that the first communication path provides at least a portion of the connectivity between the host location and a headend of the cable data delivery network (Column 6, Lines 7-10).

The examiner notes that at Column 8, Lines 41-47 it is disclosed that there is a determination made to access the first or second communications path.

Referring to claim 2, Carr discloses a USERID (see code for identifying subscriber at Column 8, Lines 3-5).

Referring to claim 10, Carr discloses a PSTN (Column 8, Lines 28-51).

Referring to claim 11, Carr discloses that the first communications path is bi-directional (Column 1, Lines 53-56).

Referring to claim 12, Carr discloses an RF cable link (Column 3, Lines 51-55).

Referring to claim 13, Carr discloses that the second communication path is uni-directional (Column 1, Lines 53-56).

Referring to claim 14, see rejection of claim 1.

Referring to claim 16, Carr discloses an electronic identifying number for either the first or second identification information (see where information sent to user terminal contains a specific address at Column 5, Lines 56-60).

Referring to claims 17-20, see rejection of claims 10-13, respectively.

Referring to claim 21, see rejection of claim 1.

Referring to claim 22, Carr discloses that a first service (cable television distribution system) has a higher data rate (Column 8, Lines 41-47) than the second level of service (PSTN or modem link disclosed at Column 8, Lines 41-47).

Referring to claim 23, see rejection of claim 22. The examiner also notes that the PSTN will be considered the first level of service if it is determined (Column 8, Lines 39-55).

Referring to claim 24, Carr discloses that the second level of service can be an RF cable link (Column 4, Lines 46-49).

Referring to claims 25-28, see rejection of claims 21-24, respectively.

Referring to claims 29-32, see rejection of claims 21-24, respectively.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-9, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carr et al. (U.S. Patent No. 5,608,446).

Referring to claim 3, Carr discloses a USERID, but fails to teach the identification information containing a password. The examiner takes Official Notice that it would have been obvious to include a password in the identifying code (as discussed in the

rejection of claim 2), for the purpose of adding additional security to prevent an outside source from tampering with user accounts.

Claim 4 corresponds to claim 3, with the additional limitation of providing a database to store the USERID and password. Carr discloses a database used for this purpose at Column 5, Lines 18-19 and Lines 36-39).

Claim 5 corresponds to claim 4, with the additional limitation of authorizing the use of the first communications path according to the USERID and password information (Column 8, Lines 39-55).

Claim 6 corresponds to claim 5, with the additional limitation of a dial-up device that further includes a cable data receiver for receiving the digital data. Carr discloses that the host location includes a dial-up device that further includes a cable data receiver for receiving digital data (element 70 and 112 in Figure 3 and Column 5, Lines 48-67).

Claim 7 corresponds to claim 6, with the additional limitation of the dial-up device is uniquely identified by an electronic identifying number, and where the second identification information includes the electronic identifying number. Carr discloses that the dial-up device is uniquely identified by an electronic identifying number (see where information sent to user terminal contains a specific address at Column 5, Lines 56-60) and that the second identification information includes the electronic identifying number (Column 5, Lines 36-39).

Claim 8 corresponds to claim 7, with the additional limitation of the database including authorized identifying number for each of a plurality of dial-up devices. Carr

discloses that at least one database further includes authorized identifying numbers for each of a plurality of dial-up devices (Column 5, Lines 18-19 and Lines 34-39).

Claim 9 corresponds to claim 8 with the additional limitation of the validation agent authorizing the dial-up device to receive the digital data over the second communications path after comparing the identifying number of the call up device with the numbers in the database. Carr discloses that the validation agent authorizes the dial-up device to receive digital data over the second communications path (Column 8, Lines 41-47) in accordance with a comparison of the identifying number of the call up device with the identifying numbers stored in the database (Column 5, Lines 34-39 and Column 7, Lines 62-67 and Column 8, Lines 1-5).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Moura et al. (U.S. Patent No. 5,586,121) discloses a asymmetric hybrid access system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone numbers

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for the organization where this application or proceeding is assigned are (703) 308-5359 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-9048.

January 27, 2003



ANDREW FAILE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600